



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard F. Bergner
Attorney at Law
Registered Agent for National Oil Recovery Corporation
5718 Westheimer, Suite 700
Houston, Texas 77057
713-783-4832 (telephone)
713-783-2502 (telecopy)

Re: Falcon Refinery Superfund Site
2725 Bishop Road, Ingleside, San Patricio County, Texas

Dear Mr. Bergner:

This letter informs you that the United States Environmental Protection Agency (EPA) intends to perfect a lien upon property located on or about 2725 Bishop Road, Ingleside, San Patricio County, Texas, the exact legal description of which is contained in Enclosure 1 to this letter. The property comprises a portion of the Falcon Refinery Superfund Site. The EPA has determined that the National Oil Recovery Corporation (NORCO) is the owner of this property (the "Property" or "Site"). The lien which EPA intends to perfect against the Property arises under Section 107(1) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the "Superfund," 42 U.S.C. § 9607(1). The lien is intended to secure payment to the United States of costs and damages for which NORCO, the owner of the Property, would be liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

Under CERCLA Sections 107(a) and 101(9), 42 U.S.C. § 9607(a) and 9701(9), liable persons include persons who own any "facility," including a site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. The EPA has determined that a release or threat of release of hazardous substances pursuant to CERCLA Section 101(22), 42 U.S.C. § 9601(22), has occurred at or from the Property. The Property comprises a portion of the Falcon Refinery Superfund Site, at which hazardous substances comprised principally of cyclohexane, methycyclohexane, toluene, ethylbenzene, xylenes (totals), fluoranthene, pyrene, benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, ideno(1,2,3-cd)pyrene, benzo(g,h,i)perylene, aluminum, arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, selenium, thallium, vanadium, and zinc came to be located, and are subject to or affected by the removal

action and remedial activities planned for the Site. Costs and damages include the costs incurred and to be incurred by the United States in responding to a release or threat of release at the Site.

The lien arising in favor of the United States on the Property continues until the liability for the costs is satisfied or until the liability for the costs becomes unenforceable through operation of the statute of limitations in CERCLA Section 113.

On May 28, 2003, the EPA notified NORCO in a Special Notice letter by certified mail of its potential liability under CERCLA. The May 28, 2003, letter requested NORCO to respond to EPA with a good-faith offer to perform a removal action and commence remedial activities at the Site. EPA and NORCO reached an agreement that called for NORCO to pay past costs, perform a removal action and commence a Remedial Investigation and Feasibility Study at the Site. On June 9, 2004, EPA issued the Administrative Order on Consent for Removal Action (CERCLA Docket Number 06-04-04) and the Administrative Order on Consent for Remedial Investigation and Feasibility Study (CERCLA Docket Number 06-05-04) to NORCO in connection with the Site. On February 10, 2010, NORCO advised EPA that the company was financially unable to continue performing in accordance with the terms of the two Administrative Orders on Consent. NORCO has sought to sell the refinery since the beginning of discussions with EPA concerning the Site. Since February 10, 2010, when EPA was advised of NORCO's inability to continue performance of the actions required by the two Administrative Orders on Consent, the EPA has supported NORCO's attempt to sell the refinery because NORCO informed EPA that the sale proceeds would be used to finance the remaining requirements of the two Administrative Orders on Consent. On February 10, 2011, NORCO informed EPA that it had reached an agreement to sell the Site to a prospective purchaser and was prepared, therefore, to resume performance of the two Administrative Orders on Consent. NORCO indicated that the closing on the sale of the refinery would be March 15, 2011. On March 21, 2011, however, EPA was informed that the sale of the refinery did not close. EPA believes, therefore, that NORCO may not be able to complete performance of requirements of the two Administrative Orders on Consent.

Under CERCLA, NORCO is liable for the costs incurred and to be incurred in connection with EPA's actions in responding to the Site. The EPA has incurred \$826,112.20 in past response costs through January 31, 2011, and because response work is ongoing, the amount of the lien will increase as the costs incurred increase. NORCO may avoid the perfection of a lien upon the Site by paying all costs and damages for which it is liable.

The EPA has assembled a Lien Filing Record consisting of documents relating to its decision to perfect the lien. This record is kept at the following address, and may be reviewed and copied at reasonable times by arrangement with:

Ms. Gloria Moran
Assistant Regional Counsel
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

Telephone: (214) 665-3193
Telecopy: (214) 665-6460
Email: moran.gloria-small@epa.gov

The EPA has reviewed the information in the Lien Filing Record and believes that the Agency has a reasonable basis to believe that the statutory elements for perfecting a lien are satisfied. After 14 calendar days from the date of this letter, EPA intends to transmit a notice of lien to the clerk's office of the San Patricio County, as designated by State law, where the real property is located. The effect of this filing is to perfect the lien upon NORCO's property.

NORCO may notify the EPA in writing within 14 calendar days from the date this letter was mailed if it believes that the EPA's information or determination is in error. NORCO may also request to appear before a neutral EPA official to present any information that it has indicating that the EPA does not have a reasonable basis to perfect its lien, NORCO should describe in its letter or written request the reasons for believing that EPA does not have a reasonable basis to perfect the Agency's lien, because EPA may, as described below, agree with NORCO's reasons and reconsider the Agency's intention to perfect a lien without further review or a meeting. Any written submissions or requests for a meeting should reference the Superfund Site, be addressed to the above referenced Regional Attorney, and may include documents or information which supports NORCO's contentions.

If the EPA receives a written submission or a request for a meeting from NORCO within 14 calendar days from the date this letter was mailed, Agency staff will review your submission or request for a meeting. If, after review and consultation, EPA agrees that the Agency does not have a reasonable basis upon which to perfect a lien, EPA will not perfect its lien, and will so notify NORCO. If EPA disagrees, the written submission or request will be referred to a neutral EPA official selected for the purpose of reviewing the submission or for conducting the meeting, along with the Lien Filing Record.

If NORCO has requested an opportunity to appear, a meeting will be scheduled. NORCO may be represented at this meeting via teleconference. The EPA will be represented by its enforcement staff, including a representative from the Office of Regional Counsel. NORCO may be represented by counsel at this meeting.

The meeting will be an informal hearing in which you may provide EPA with information as to why the Agency's assumptions require reconsideration. The meeting will not be conducted using rules of evidence or formal administrative or judicial procedures. The sole issue at the meeting would be whether EPA has a reasonable basis to perfect its lien based upon CERCLA Section 107(l), 42 U.S.C. § 9607(l).

After reviewing your written submissions, or conducting a meeting, if one is requested, the neutral EPA official will issue a recommended decision based on the Lien Filing Record. The recommended decision will state whether EPA has a reasonable basis to perfect the lien and will be forwarded to the Agency official delegated to execute liens for action. NORCO will be notified of the Agency's action (whether perfection or the decision not to perfect) and furnished a copy of the recommended decision.

By the submission of information, NORCO and EPA do not waive and are not prohibited from asserting any claims or defenses in any subsequent legal or administrative proceeding, or request for and participation at a meeting, or recommended decision by the neutral EPA official that EPA has a reasonable basis to perfect a lien.

If you have any questions pertaining to this letter, please contact Gloria Moran at 214-665-3193.

Sincerely yours,

Samuel Coleman, P.E.
Director
Superfund Division

Enclosure

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